

1AP13 Rec'd PCT/PTO 12 FEB 2007

FORM PTO-1390 (Modified) U.S. PATENT AND TRADEMARK OFFICE; U.S. DEPARTMENT OF COMMERCE (REV. 9-2006)		ATTORNEY'S DOCKET NUMBER <b>001107.00591</b>
<b>TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A SUBMISSION UNDER 35 U.S.C. 371</b>		U.S. APPLICATION NO. (If known, see 37 CFR 1.5) <b>10/568,765</b>
INTERNATIONAL APPLICATION NO. <b>PCT/US2004/034625</b>	INTERNATIONAL FILING DATE <b>21 October 2004</b>	PRIORITY DATE CLAIMED <b>22 October 2003</b>
TITLE OF INVENTION <b>IMPROVED COMBINATION BACTERIOLYTIC THERAPY FOR THE TREATMENT OF TUMORS</b>		
APPLICANT(S) FOR DO/EO/US <b>Long DANG et al</b>		
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:		
<ol style="list-style-type: none"><li>1. <input type="checkbox"/> This is a <b>FIRST</b> submission of items concerning a submission under 35 U.S.C. 371.</li><li>2. <input checked="" type="checkbox"/> This is a <b>SECOND</b> or <b>SUBSEQUENT</b> submission of items concerning a submission under 35 U.S.C. 371.</li><li>3. <input type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (25) indicated below.</li><li>4. <input type="checkbox"/> The US has been elected (Article 31).</li><li>5. <input type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371 (c)(2))<ol style="list-style-type: none"><li>a. <input type="checkbox"/> is attached hereto (required only if not communicated by the International Bureau).</li><li>b. <input type="checkbox"/> has been communicated by the International Bureau.</li><li>c. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US).</li></ol></li><li>6. <input type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(2))<ol style="list-style-type: none"><li>a. <input type="checkbox"/> is attached hereto.</li><li>b. <input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4).</li></ol></li><li>7. <input type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371 (c)(3))<ol style="list-style-type: none"><li>a. <input type="checkbox"/> are attached hereto (required only if not communicated by the International Bureau).</li><li>b. <input type="checkbox"/> have been communicated by the International Bureau.</li><li>c. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired.</li><li>d. <input type="checkbox"/> have not been made and will not be made.</li></ol></li><li>8. <input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).</li><li>9. <input checked="" type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371 (c)(4)).</li><li>10. <input type="checkbox"/> An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371 (c)(5)).</li><li>11. <input type="checkbox"/> A copy of the International Preliminary Examination Report (PCT/IPEA/409).</li><li>12. <input type="checkbox"/> A copy of the International Search Report (PCT/ISA/210).</li></ol>		
Items 13 to 23 below concern document(s) or information included:		
<ol style="list-style-type: none"><li>13. <input type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98.</li><li>14. <input checked="" type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.</li><li>15. <input type="checkbox"/> A <b>FIRST</b> preliminary amendment.</li><li>16. <input type="checkbox"/> A <b>SECOND</b> or <b>SUBSEQUENT</b> preliminary amendment.</li><li>17. <input type="checkbox"/> An Application Data Sheet under 37 CFR 1.76.</li><li>18. <input type="checkbox"/> A substitute specification.</li><li>19. <input type="checkbox"/> A power of attorney and/or change of address letter.</li><li>20. <input type="checkbox"/> A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821 - 1.825.</li><li>21. <input type="checkbox"/> A second copy of the published International Application under 35 U.S.C. 154(d)(4).</li><li>22. <input type="checkbox"/> A second copy of the English language translation of the International Application under 35 U.S.C. 154(d)(4).</li><li>23. <input type="checkbox"/> Express Mail Label No.</li></ol>		

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

U.S. APPLICATION NO (if known, see 37 CFR 1.5) <b>10/568,765</b>		INTERNATIONAL APPLICATION NO. <b>PCT/US2004/034625</b>		ATTORNEY'S DOCKET NUMBER <b>001107.00591</b>																																																																																																																																																													
24. Other items or information:  Response to Notification of Missing Requirements Copy of Notification of Missing Requirements Postcard																																																																																																																																																																	
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See 37 CFR 1.27. Fees above are reduced by 1/2.</td> </tr> <tr> <td colspan="6"><b>SUBTOTAL =</b></td> </tr> <tr> <td colspan="6">Processing fee of <b>\$130.00</b> for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(i)).</td> </tr> <tr> <td colspan="6"><b>TOTAL NATIONAL FEE =</b></td> </tr> <tr> <td colspan="6">Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40 per property + \$ 40.00</td> </tr> <tr> <td colspan="6"><b>TOTAL FEES ENCLOSED =</b></td> </tr> <tr> <td colspan="6">Amount to be \$</td> </tr> <tr> <td colspan="6">Amount to be \$</td> </tr> </table>						The following fees have been submitted:				CALCULATIONS	PTO USE	25. <input type="checkbox"/> Basic national fee (37 CFR 1.492(a)).....				\$ 300		26. <input type="checkbox"/> Examination fee (37 CFR 1.492(c)) If the written opinion prepared by ISA/US or the international preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article				\$ 0		All other situations.....				\$ 200		27. <input type="checkbox"/> Search fee (37 CFR 1.492(b)) If the written opinion of the ISA/US or the International preliminary examination report by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4)...				\$ 0		Search fee (37 CFR 1.445(a)(2)) has been paid on the international application to the as an International Searching Authority.....				\$ 100		International Search Report prepared by an ISA other than the US and provided to the Office previously communicated to the US by the IB.....				\$ 400		All other situations.....				\$ 500		<b>TOTAL OF 25, 26 and 27 =</b>				\$ 0.00		<input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing in compliance with 37 CFR 1.821(c) or (e) in an electronic medium or computer program listing in an electronic medium) (37 CFR 1.492(j)).						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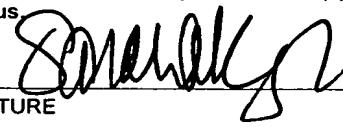
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

- a.  A check in the amount of \$ \_\_\_\_\_ to cover the above fees is enclosed.
- b.  Please charge my Deposit Account No. 19-0733 in the amount of \$105.00 to cover the above fees. A duplicate copy of this sheet is enclosed.
- c.  The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 19-0733. A duplicate copy of this sheet is enclosed.
- d.  Fees are to be charged to a credit card. **WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038. The PTO-2038 should only be mailed or faxed to the USPTO. However, when paying the basic national fee, the PTO-2038 may NOT be faxed to the USPTO.

**ADVISORY:** If filing by EFS-Web, do NOT attach the PTO-2038 form as a PDF along with your EFS-Web submission. Please be advised that this is not recommended and by doing so your credit card information may be displayed via PAIR. To

**NOTE:** Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.

SEND ALL CORRESPONDENCE TO:

  
SIGNATURE

BANNER &amp; WITCOFF, LTD.,

Sarah A. Kagan

NAME

32,141

REGISTRATION NUMBER

2-12-2007

DATE

02/14/2007 MKAYPAGH 0000005 190733 10568765

01 FC:2617 65.00 DA

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Long DANG et al

Int'l Application No.: PCT/US2004/034625

Serial No. 10/568,765

: Art Unit: To Be Assigned

Filed: February 21, 2006

: Examiner: To Be Assigned

For: IMPROVED COMBINATION  
BACTERIOLYTIC THERAPY FOR THE  
TREATMENT OF TUMORS

: Atty Docket: 001107.00591

**RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. § 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

Commissioner of Patents  
U.S. Patent and Trademark Office  
Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Sir:

Applicants submit the following documents to complete the requirements for acceptance under 35 U.S.C. § 371:

1. Fee Transmittal Sheet Form PTO-1390 (Modified) in Duplicate;
2. Copy of the Notification of Missing Requirements mailed August 11, 2006 and

Serial No. 10/568,765

Response to Missing Requirements  
Under 35 U.S.C. 371 In The United States  
Designated/Elected Office (DO/EO/US)

3. Executed Declaration for Patent Application and
4. Executed Assignment with Recordation cover sheet.

Please charge our Deposit Account No. 19-0733 in the amount of \$ 105.00, as follows:

\$ 65.00 Late declaration surcharge (Small Entity)

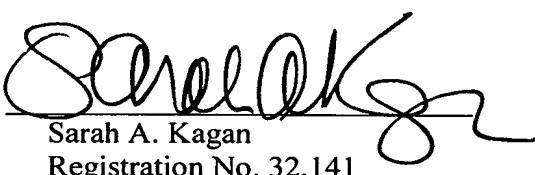
\$ 40.00 Recordation of Assignment.

We believe no additional fees are required. If this is incorrect, please charge our Deposit Account No. 19-0733.

Respectfully submitted,

BANNER & WITCOFF, LTD.

By:



Sarah A. Kagan  
Registration No. 32,141

Date: 2-12-2007

Banner & Witcoff, Ltd.  
Customer Number: 22907

SAK:mhn

RECEIVED

JAN 22 2007



UNITED STATES PATENT AND TRADEMARK OFFICE

BANNER &amp; WITCOFF LTD.

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 United States Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/568,765	Long Dang	001107.00591
INTERNATIONAL APPLICATION NO.		PCT/US04/34625
I.A. FILING DATE		PRIORITY DATE
10/21/2004		10/22/2003

22907  
 BANNER & WITCOFF  
 1001 G STREET N W  
 SUITE 1100  
 WASHINGTON, DC 20001

CONFIRMATION NO. 6733

371 FORMALITIES LETTER



\*OC000000022054049\*

Date Mailed: 01/19/2007

**NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Indication of Small Entity Status
- Copy of the International Application filed on 02/21/2006
- Copy of the International Search Report filed on 02/21/2006
- Preliminary Amendments filed on 02/21/2006
- Information Disclosure Statements filed on 02/21/2006
- Request for Immediate Examination filed on 02/21/2006
- U.S. Basic National Fees filed on 02/21/2006
- Priority Documents filed on 02/21/2006
- Specification filed on 02/21/2006
- Claims filed on 02/21/2006
- Abstracts filed on 02/21/2006
- Drawings filed on 02/21/2006

Docketed 1123/07  
 Attny LMH/KAC/ENTC  
 Case Ref 001107.00591  
 Action Resp. Notif. Miss. Reg'ts  
 Due Date 3/19/07  
 Last Day 8/19/07  
 By AT

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

**SUMMARY OF FEES DUE:**

Total additional fees required for this application is **\$65** for a Small Entity:

- **\$65** Surcharge.

**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.  
<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at <http://www.uspto.gov/ebc>.

**If you are not using EFS-Web to submit your reply, you must include a copy of this notice.**

TAMALA D HOLLAND

Telephone: (703) 308-9140 EXT 209

**PART 1 - ATTORNEY/APPLICANT COPY**

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/568,765	PCT/US04/34625	001107.00591

FORM PCT/DO/EO/905 (371 Formalities Notice)